THE HYDERABAD GENERAL SALES TAX ACT, 1950.

NO. XIV OF 1950.

CONTENTS.

Sections.

1. Short title, extent and commencement.
2. Definitions.
2-A. Appointment of Tribunal.
3. Tax for the year 1950-51.
4. Tax for subsequent years.
5. Points of sale at which tax to be leviable.
6. Special provision for bullion, etc.
7. Power to make exemptions, etc.
8. Licensing of dealers in exempted goods.
9. Licensing and exemption of agents.
10. Registration of dealers.
11. Collection of tax by dealers.
12. Procedure to be followed by assessing authority.
13. Payment and recovery of tax and other dues payable under the Act.
13-A. Refunds.
13-B. Remission of Tax.
14. Appeals.
15. Revision.
15-A. Appeal to the Tribunal.
16. Accounts to be maintained by dealers.
16-A. Certain dealers to issue bill or Cash memorandum.
17. Powers to order production of accounts and powers of entry, inspection and seizure.
18. Liability to tax of non-resident dealers.
19. Penalty for failure to furnish returns and for false returns.
19-A. Appearance of authorised representatives.
20. Offences and prosecutions.
21. Composition of offences.
21-A. Disclosure of information by public servant.
22. Assessments, etc., not to be questioned in Courts.
23. Bar of suits.
24. Limitation, for certain suits and prosecutions.
25. Application of certain provisions to casual traders and agents deemed to be dealers.
26. Power to make rules.
27. Operation of Act 3 of 1357 F.
28. Power to remove difficulties.

Schedule I.

Schedule II.

*THE HYDERABAD GENERAL SALES TAX ACT, 1950.

No. XIV OF 1950.

WHEREAS it is expedient to provide for the levy of a general tax on the sale of goods in the Hyderabad State;

IT IS hereby enacted as follows:-

Short title, extent and commencement.

1. (1) This Act may be called the Hyderabad General Sales Tax Act, 1950.

(2) It extends to the whole of the Hyderabad State and shall come into force from the date of its publication in the Jarida.

Definitions.

2. In this Act, unless there is anything repugnant in the subject or context—

(*a*) "assessee" means a person by whom a tax is payable under this Act;

(*b*) "assessing authority" means any person authorised by Government to make any assessment under this Act;

(*c*) "casual trader" means a person who, in the period of assessment referred to in section 3 or any year of assessment referred to in section 4, has not been regularly engaged in the business of buying, selling or supplying goods in the Hyderabad State, but has in such period or year been a party, whether as principal or agent, to occasional transactions of a business nature involving the buying, selling or supplying of goods in the said State;

(*d*) "Commissioner" means the person appointed by Government to be the Commissioner of Sales Tax, and Deputy Commissioner means a person so appointed to be a Deputy Commissioner of sales tax;

(*e*) "dealer" means any person, local authority, company, firm, Hindu undivided family or any association or associations of persons engaged in the business of buying, selling or supplying goods in the Hyderabad State whether for a commission, remuneration or otherwise and includes †[a State Government which carries on such business and] any society, club or association which buys or sells or supplies goods to its members;

(*f*) "exempted goods" means goods specified in Schedule I;

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*Published in the Extraordinary Jarida No.(45) dated 12th April, 1950.

†Amended by Act No. VI of 1952, published in Gazette-Extraordinary No. (14 dated 28th February, 1952.

(*g*) " goods " means all kinds of movable property other than actionable claims, stocks and shares and securities, and includes all materials, articles and commodities, including materials, articles and commodities designed to be used in the construction, fitting out, improvement or repair of movable or immovable property ;

(*h*) " licence " means a licence granted or renewed under this Act ;

(*i*) " prescribed " means prescribed by rules made under this Act ;

†[(*ii*) " " Tribunal " means the Tribunal appointed under section 2-A.]

(*j*) " registered dealer " means a dealer registered under this Act ;

(*k*) " sale " with all its grammatical variations and cognate expressions means every transfer of property in goods by one person to another in the course of trade or business for cash or for deferred payment or other valuable consideration and includes also a transfer of property in goods involved in the execution of a *[works] contract, but does not include a mortgage, hypothecation, charge or pledge ;

Explanation.—(1) A transfer of goods on the hire purchase or other instalment system of payment shall, notwithstanding the fact that the seller retains the title in the goods as security for payment of the price, be deemed to be a sale.

**[*Explanation.*—(1) Notwithstanding anything to the contrary in any other law for the time being in force, a transfer of goods, in respect of which no tax can be imposed by reason of the provisions contained in article (286) of the Constitution, shall not be deemed to be ' Sale ' within the meaning of this clause.]

(*l*) " tax " means a tax leviable under the provisions of this Act ;

(*m*) " turnover " means the aggregate amount for which goods are either bought by or sold by a dealer, whether for cash or for deferred payment or other valuable consideration :

*[Provided that the proceeds of the sale by a person of agricultural or horticultural produce grown by himself or grown on any land in which he has an interest whether as owner, usufructuary mortgagee, tenant or other wise shall be excluded from his turnover ;]

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†Added by Act No. VII of 1955 published in Gazette Extraordinary No. 56, dated 14th May, 1955.

*Amended by Act, No. X of 1953, published in Gazette Extraordinay No. 59, dated 1st May, 1953.

**Substituted by Act No. XXXII of 1950.

Explanation.--(1) Subject to such conditions and restrictions, if any, as may be prescribed in this behalf–

(*i*) the amount for which goods are sold shall, in relation to a works contract, be deemed to be the amount payable to the dealer for carrying out such contract, less such portion as may be prescribed of such amount representing the usual proportion of the cost of labour to the cost of materials used in carrying out such contract;

(*ii*) the amount for which goods are sold shall include any sums charged for anything done by the dealer in respect of the goods sold at the time of or before the delivery thereof;

(*iii*) any cash or other discount on the price allowed in respect of any sale and any amount refunded in respect of articles returned by customers shall not be included in the turnover;

(*iv*) where for accommodating a particular customer, a dealer obtains goods from another dealer and immediately disposes of the same to the said customer, the sale in respect of such goods shall be included in the turnover of the latter dealer but not in that of the former;

(*n*) " works contract " means any agreement for carrying out for cash or for deferred payment or other valuable consideration, the construction, fitting out, improvement or repair of any building, road, bridge or other immovable property or the fitting out, improvement or repair of any movable property;

*[(*o*) ' year ' means the financial year commencing on the first day of April, but for purposes of assessment a dealer may at his option declare that he will adopt the year for which the accounts of that dealer are ordinarily maintained in his books and where no such declaration is made the year commencing on the first of April and ending on the 31st of March shall be reckoned as the assessment year:

Provided that a registered dealer shall not change his assessment year except with the previous permission of the Assessing Authority of the area and except on such terms and conditions as may be determined by that authority.]

Appointment of Tribunal.

‡[2.-A. (1) The Government shall appoint a Tribunal consisting of three members to exercise the functions conferred on the Tribunal by or under this Act. Of the three Members, one shall be a judicial Officer not below the rank of District Judge. He shall be the Chairman of the Tribunal. The other two members shall possess such qualifications as may be prescribed.

(2) Any vacancy in the membership of the Tribunal shall be filled up by the Government.

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*Amended by Act No. X of 1953, published in Gazette Extraordinary No. (59) dated 1st May, 1953.

‡ Added by Act No. VII of 1955, published in Gazette Extraordinary No. 56, dated 14th May, 1955.

(3) (a) The functions of the Tribunal may be exercised by a Bench constisting of all the members of the Tribunal or by a Bench constisting of two members consituted by the Chairman or, in the event of the office of a member other than the Chairman being vacant, by a Bench consisting of the Chairman and the other members :

Provided that, if any case which comes up before a Bench (of which the Chairman is not a member) involves a question of law, the Bench may, in its discretion, reserve such for decision by a Bench of which the Chairman shall be a member.

(b) Where an appeal or application is heard by all the three members of the Tribunal, and the members differ in opinion on any point, the point shall be decided in accordance with the opinion of the majority.

(c) Where an appeal or application is heard by a Bench consisting of two members and the members are divided in their opinion, the case shall be referred to the full Bench.

(4) The Tribunal shall, with the previous sanction of the Government, make regulations consistent with the provisions of this Act and the rules made thereunder, for regulating its procedure and the disposal of its business.

(5) The regulations made under sub-section (4) shall be published in the official Gazette.]

Tax for the year 1950-51.

3. For the year opening on the 1st day of April, 1950, every dealer whose total turnover for the period from the 1st day of May 1950 to the 31st day of March 1951, is not less than Rs. 6,875, and every casual trader whatever be his total turnover for the said period, shall, save as otherwise provided in this Act, pay—

(1) a tax at the rate of two pies in the rupee on so much of his turnover for the said period as is attributable to transactions (excluding transactions performed in execution of a contract entered into before the commencement of this Act) in goods other than exempted goods ;

(2) an additional tax at the rate of six pies in the rupee on so much of his turnover for the said period as is attributable to transactions (excluding such transactions as aforesaid) in goods specified in Schedule II.

Tax for subsequent years.

4. For every subsequent year every dealer whose turnover for the year is not less than Rs. 7,500, and every casual trader whatever be his tunrover for the year, shall, save as otherwise provided in this Act, pay—

(1) a tax at the rate of *[three pies in the rupee in I.G. currency] on so much of his turnover for the year as is attributable to transactions in goods other than exempted goods ;

* Amended by Act. [No. X of 1953, published in Gazette Extraordinary No. (59), dated 1st May, 1953.

(2) an additional tax at the rate of six pies in the rupee *[in I.G. currency] on so much of his turnover for the year as is attributable to transactions in goods specified in Schedule II.

*[4-A. The Assessing Authority of the area may in such circumstances and subject to such conditions as may be prescribed, accept from any dealer in lieu of the amount of the tax payable during any period under this Act a lumpsum by way of composition determined in the prescribed manner.]

Points of sale at which tax to be leviable.

5. (1) The tax payable under clause (1) of section 3 or clause (1) of section 4 shall, save as provided in section 6, be leviable in respect of every point in a series of sales by successive dealers or casual dealers :

Provided that--

(*i*) the buyer and the seller shall not both be taxed in respect of the same transaction of sale;

(*ii*) where a dealer or casual trader is taxed as the buyer of any goods he shall not be taxed in respect of a subsequent sale by him of the same goods.

(2) The tax payable under clause (2) of section 3 and clause (2) of section 4 shall be leviable at such one point only in a series of sales by successive dealers or casual traders as may be prescribed.

[*Special Provisions for bullion, etc.

6. Notwithstanding anything contained in this Act,

(*i*) so much of the turnover as is attributable to transactions in gold or silver bullion shall be liable to tax at the rate of four annas in one hundred rupees at one point only and the tax shall be leviable on the first dealer or casual trader who is not exempt under this Act;

(*ii*) so much of the turnover as is attributable to transactions in precious stones including unset precious stones, pearls, real and cultured, imitation precious stones and gold or silver gota, lace and salma shall be liable to tax at the rate of two rupees in one hundred rupees at one point only and the tax shall be leviable on the first dealer or casual trader who is not exempt under this Act ;

(*iii*) so much of the turnover as is attributable to transactions in cigarettes costing annas two or less per packet of ten cigarettes shall be liable to tax at the rate of †[one anna and three pies] in a rupee at one point only and the tax shall be leviable on the first dealer or casual trader who is not exempt under this Act ;]

†(*iv*) [Omitted.]

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*Amended by Act No. X of 1953, published in Gazette Extraordinary No. (59), dated 1st May, 1953.

†Amended by Act No. XIII of 1956, published in Gazette Extraordinary No. 109, dated 6th June, 1956.

*[(*v*) so much of the turnover as is attributable to transactions in all cotton cloth made in mills or woven on power looms other than coarse and medium cloth costing less than Rs. 2-8-0 per yard shall be taxed at six pies in the rupee at the first point of sale and at three pies at subsequent points ;

Explanation (1).—" Coarse " cloth means any cloth in which the count of warp yarn employed (excepting the border) is below 17s (whether single or folded) ;

Explanation (2).—" Medium " cloth means any cloth in which the court of warp yarn employed (excepting the border) is 17s or finer but is less than 35s (whether single or folded;]

†[(*vi*) so much of the turnover as is attributable to transactions in sugar shall be taxed at the rate of six pies in a rupee at the first point of sale only and the tax shall be leviable on the first dealer or casual trader who is not exempt under this Act :

Provided that the Government may, by notification in the Official Gazette increase the rate of such tax on sugar from six pies up to one anna in a rupee ;]

(*vii*) so much of the turnover as is attributable to transactions in matches shall be taxed at the rate of six pies in a rupee at the first point of sale only and the tax shall be leviable on the first dealer or casual trader who is not exempt under this Act ;]

‡[(*viii*) so much of the turnover as is attributable to transactions in cotton including kapas shall be liable to tax at the rate of six pies in the rupee at such one point only as may be specified by Government by notification in the Official Gazette ;]

(*ix*) so much of the turnover as is attributable to transaction in Kerosene shall be liable to tax at the rate of 3 pies in the rupee at such one point only as may be specified by Government by notification in the Official Gazette ;]

*[(*x*) (*a*) so much of the turnover as is attributable to the sale of State liquor as defined in sub-clause (a) of clause (ix) of section 2 of the Hyderabad Abkari Act, 1316 F. (I of 1316 F.) other than brandy, rum and whisky shall be taxed at the rate of six pies in the rupee at the first point of sale ;

(*b*) so much of the turnover as in attributable to the sale of liquor other than State liquor to which the above sub-clause applies shall be taxed at the rate of two annas in the rupee at the first point of sale ;]

(*xi*) so much of the turnover as is attributable to the sale of Opium. Ganja and Bhang, shall be taxed at the rate of six pies in the rupee at the first point of sale ;

(*xii*) so much of the turnover as is attributale to transactions in cereals and pulses, including all kinds of dhas and

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* Amended by Act No. XIII of 1956, published in Gazette Extraordinary No. 109, dated 6-6-1956.

† Substituted by Act No. XXVII of 1954, published in Gazette Extraordinary No. 172, dated 1st October, 1954.

‡ Inserted by act No. XXVIII of 1954 published in Gazette Extraordinary No. (174), dated 1st October, 1954.

paddy, husked or unhusked, shall be liable to tax at the rate of six pies in the rupee at such one point only as may be specified by the Government by notification from time to time;

**[(*xiii*) so much of the turnover as is attributable to transactions in cement shall be taxed at the rate of nine pies in the rupee at the first point of sale.

(*xiv*) Government may at any time by notification in the Jarida impose a tax on the sale of cigarettes costing more than annas two per packet of ten cigarettes, pipe tobacco and cigars, at a rate not higher than annas five in the rupee at such stage or stages as the Government may deem fit.]

Power to make exemptions, etc.

7. (1) Government may by notification in the Jarida make an exemption, reduction in rate or other modification in respect of any tax payable under section 3 or section 4 in favour of—

(*a*) any specified class of goods at all points or at any specified point or points in a series of sales by successive dealers or casual traders, or

(*b*) the whole or any part of the turnover of any specified class of persons.

†[(2) Any exemption, reduction in rate or other modification made under sub-section (1) may be made either unconditionally or subject to such restrictions and conditions as may be specified in the notification.

Licensing of dealers in exempted goods.

†[8. (1) A dealer who deals in exempted goods (including goods exempted by notification under section 7) and whose total probable turnover from such goods in the period of assessment referred to in section 3, or in any year of assessment referred to in section 4, is not less than Rs. 6,875 or 7,500 as the case may be, shall not continue after such date as may be prescribed to deal in such goods otherwise than under, and in accordance with the conditions of, a licence to be obtained before that date and from time to time renewed before the expiration of the period for which it is for the time being valid.

(2) A dealer who deals in goods in contravention of sub-section (1) or who commits any breach of the conditions of a licence obtained under sub-section (1) shall be liable to the prescribed penalties and in respect of goods exempted by notification under section 7 shall in the discretion of the assessing authority be liable to pay the tax to which he would have been liable if the exemption had not been made.]

*[(3) Omitted.]

Licensing and exemption of agents.

9. The Government may, on application and on payment of such fee as may be prescribed in that behalf, licence under this section any person who for an agreed commission or brokerage

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** Amended by Act No. XIII of 1956, published in Gazette Extraordinary No. 109, dated 6-6-1956.

†Amended by Act No. XXXII of 1950, published in Gazette Extraordinary No. 50, dated 11th September, 1950.

*Omitted by Act No. X of 1953, published in Gazette Extraordinary No. 59, dated 1st May, 1953.

buys or sells on behalf of known principals specified in his accounts in respect of each transaction and may exempt from the tax or taxes payable under section 3,4 or 6 such of his transaction as are carried out in accordance with the terms and condition of his licence:

Provided that—

(*i*) in the case of an agent who carries on such business in the Hyderabad State on behalf of a principal who is a resident of the Hyderabad State, the agent shall be assessed to the tax or taxes leviable under this Act, in respect of the transaction. Without prejudice to his other rights to recover from his principal the tax or taxes paid by him on behalf of the principal such agent may retain out of any moneys payable to the principal by the agent, a sum equal to the amount of the tax or taxes assessed on or paid by the agent. The principal on whose behalf the agent has paid the tax or taxes as aforesaid shall not again be taxed in respect of same transaction but the burden of proving that the tax in respect of the transaction has been paid to the agent shall be on such principal;

(*ii*) the commission or brokerage agreed upon and specified in the accounts represent the entire remuneration payable to the agent, apart from the tax paid by him on behalf of the principal and the legitimate incidental charges actually incurred by him and specified in the accounts in respect of insurance, transport, loading and unloading, godown rent, interest, correspondence, telegrams, the use of the telephone, and the like;

(*iii*) the burden of proving that a transaction is exempt, by virtue of this section, from tax or taxes payable under section 3,4 or 6 shall be on the licensee.

Registration of dealers.

10. (1) Every dealer whose probable turnover for the period of assessment referred to in section 3, or for any year of assessment referred to in section 4 is not less than Rs. 4,583 or Rs. 5,000 as the case may be, shall be registered under this Act and for that purpose shall submit an application for registration to such person, in such manner, within such period and accompanied by such fee, as may be prescribed.

(2) A dealer who has been registered in pursuance of subsection (1) shall be entitled to have his registration cancelled if he establishes to the satisfaction of the prescribed authority—

(*a*) that his turnover for the period of assessment referred to in section 3 was less than Rs. 4,583 and that his turnover for the year 1951-52 was less than Rs. 5,000, or

(*b*) that his turnover in each of two consecutive years, the first of which was a year not earlier than 1951-52, was less than Rs. 5,000.

(3) A dealer shall, until his registration is cancelled, be liable to pay the prescribed fee for every year subsequent to that in which he applied for registration.

Collection of tax by dealers.

11. (1) No person who is not registered as a dealer shall collect any amount by way of tax under this Act nor shall a registered dealer make any such collection before the 1st day

of May, 1950, except in accordance with such conditions and restrictions, if any, as may be prescribed:

Provided that Government may exempt persons who are not registered dealers from the provisions of this sub-section until such date, not being later than the 1st day of June, 1950, as Government may direct.

†[(2) Notwithstanding anything to the contrary contained in any order of an officer or tribunal or the judgement. decree or order of a Court, every person who has collected or collects on or after 1st May, 1950 any amount by way of tax otherwise than in accordance with the provisions of this Act shall pay over to the Government within such time and in such manner as may be prescribed the amount so collected by him, and in default of such payment the said amount shall be recovered from him as if it were arrears of land revenue.]

Procedure to be followed by assessing authority.

12. (1) Every dealer whose turnover in the period of assessment referred to in section 3 is six thousand eight hundred and seventy-five rupees or more or whose turnover in any year of assessment referred to in section 4, is seven thousand five hundred rupees or more in a year shall submit, such return or returns relating to his turnover in such manner, and within such periods as may be prescribed.

(2) If the assessing authority is satisfied that any return submitted under sub-section (1) is correct and complete, he shall assess the dealer on the basis thereof.

(3) If no return is submitted by the dealer under sub-section (1) within the period prescribed in that behalf or if the return submitted by him appears to the assessing authority to be incorrect or incomplete, the assessing authority shall assess the dealer to the best of his judgment:

Provided that before action is taken under this sub-section the dealer shall be given a reasonable opportunity of proving the correctness and completeness of any return submitted by him.

(4) Subject to the prescribed conditions, the assessing authority may, in lieu of proceeding in accordance with the provisions of sub-sections (1) to (3), assess a dealer——

(*a*) for the year 1951-52 as if his transactions in that year had been the same as his transactions in the period of assessment referred to in section 3 increased by *[one-eleventh], and

(*b*) for any subsequent year as if his transactions in that year had been the same as in the previous year.

Payment and recovery of tax and other dues payable under the Act.

13. (1) The tax assessed under this Act shall be paid in such manner, in such instalments, if any, and within such time, not being less than fifteen days from the date of service of the notice of assessment, as may be specified in such notice.

(2) In default of such payment a penalty not exceeding the tax remaining unpaid may be imposed and the total amount due, including the penalty, if any, may be recovered as if it were an arrear of land revenue.

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* Substituted by Act No. I of 1951, published in Gazette No. (2), dated 11th January, 1951.

† Substituted by Act No. XXI of 1956.

*[(3) All other dues payable under this Act such as licence fees, registration fees and compounding fees remaining unpaid may, without prejudice to any other modes of recovery, be recoverable as arrears of land revenue.]

Refunds.

**[13-A. The assessing or the licensing authority, as the case may be, shall refund the tax or the licence fees, if any, paid provisionally by an assessee or licensee for a particular period, if it is found to be in excess of the tax or licence fees payable by him for the said period, either by cash payment, or, at the option of the assessee or licensee, by deduction of such excess from the amount of tax or licence fees due in respect of any other period:

Provided that the assessing or the licensing authority, as the case may be, shall first apply the excess paid in respect of any period towards the recovery of any amount in respect of which a notice of demand may have been issued, and shall then refund the balance remaining, if any.

Remission of Tax.

**13-B. The Commissioner may, subject to such condition as may be prescribed, remit the whole or part of the amount of the tax payable in respect of any period by any dealer or casual trader who has suffered financially, on account of riots or through natural calamities:

Provided that if the amount to be remitted exceeds Rs. 2,000 the remission shall not be made without the previous sanction of the Government.]

Appeals.

14. (1) Any assessee objecting to an assessment made or a penalty imposed on him may, within thirty days from the date on which he was served with notice of the assessment or penalty, appeal to such authority as may be prescribed:

†[Provided that the Appellate Authority may for sufficient cause condone the delay in submission of the appeal if the reasons for doing so are shown to his satisfaction :]

Provided †[further] that no appeal shall be entertained under this sub-section unless it is accompanied by satisfactory proof of the payment of the tax admitted by the appellant to be due or of such instalments thereof as have become payable as the case may be.

(2) The appeal shall be in the prescribed form and shall be verified in the prescribed manner.

(3) The appellate authority may after giving the appellant a reasonable opportunity of being heard, pass such orders on the appeal as such authority may think fit.

(4) Every order passed in appeal under this section shall subject to **[the provisions of sections 15 and 15-A] be final.

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*Substituted by Act No. XLVII of 1952, published in Extraordinary Gazette No. 198, dated 31st December, 1952.

**Added by Act No. VII of 1955, published in Gazette Extraordinary No. 56, dated 14th May, 1955.

†Substituted by Act No. X of 1953, published in Extraordinary Gazette No. 59, dated 1st May, 1953.

Revision.

15. (1) The Commissioner may in his discretion call for and examine the record of any order passed or proceeding taken by any authority, officer or person under the provisions of this Act subordinate to him and against which no appeal has been preferred to the Tribunal under section for the purpose of satisfying himself with regard to the legality or propriety of such order or with regard to the regularity of such proceeding and may pass such order in reference thereto as he thinks fit.

(2) The powers conferred by sub-section (1) may be exercised by the Commissioner *suo motu* at any time or on application preferred within six months of the passing or taking of the order or proceeding in question.

(3) No order prejudicial to the assessee shall be passed under this section unless he has been given a reasonable opportunity of being heard.

(4) Nothing contained in this section shall apply to the orders or proceedings of any Court or Magistrate.

Appeal to the Tribunal.

**[15-A. (1) Any assessee objecting to an order passed by the appellate authority under section 14 may, if the assessee has not preferred an application for revision of the order under sub-section (1) of section 15, appeal to the Tribunal within 60 days from the date on which the order was communicated to the assessee.

(2) The Tribunal may admit an appeal preferred after the period of 60 days referred to in sub-section (1) if it is satisfied that the assessee had sufficient cause for not preferring the appeal within that period.

(3) The appeal shall be in the prescribed form, shall be verified in the prescribed manner, and shall be accompanied by such fee not exceeding one hundred rupees as may be prescribed.

(4) The Tribunal shall, after giving both parties to the appeal a reasonable opportunity of being heard, pass such order thereon as it thinks fit.

(5) Notwithstanding that an appeal has been preferred under sub-section (1), tax shall be paid in accordance with assessment made in the case:

Provided that the Tribunal may, in its discretion, permit the appellant to pay the tax in such number of instalments, or give such other directions in regard to the payment of the tax, as it thinks fit:

Provided further that, if as a result of the appeal, any change becomes necessary in such assessment, the Tribunal may authorise the assessing authority to amend the assessment, and on such amendment being made, the amount overpaid by the assessee shall be refunded to him without interest, or the further amount of tax due from him shall be collected in accordance with the provisions of this Act, as the case may be.]

**Added by Act No. VII of 1955, published in Gazette Extraordinary No. (56), dated 14th May 1955.

(6) (*a*) The Tribunal may, on the application, either of the assessee or of the Deputy Commissioner, review any order passed by it under sub-section (4) on the basis of facts which were not before it when it passed the order:

Provided that no such application shall be preferred more than once in respect of the same order.

(*b*) The application for review shall be preferred in the prescribed manner and within one year from the date on which the order to which the application relates was communicated to the applicant; and where the application is preferred by the assessee it shall be accompanied by such fee not exceeding Rs. 100 as may be prescribed.

(7) Except, as provided in the rules made under this Act, the Tribunal shall not have power to award costs to either of the parties to the appeal or review.

(8) Every order passed by the Tribunal under sub-section (4) or (6) shall be communicated by it to the assessee, the assessing authority, the authority from whose order the appeal was preferred, and the commissioner.

(9) Every order passed by the Tribunal under sub-section (4) shall, subject to the provisions of sub-section (6), be final; and every order passed by it under sub-section (6) shall be final.]

Accounts to be maintained by dealers.

16. (1) Every registered dealer and every person licensed under this Act shall keep and maintain a true and correct account showing the goods sold and bought by him and the value thereof, exempted goods and goods subject to different rates of tax being shown separately.

(2) If any dealer or person licensed under this Act does not maintain an account in accordance with sub-section (1) the assessing authority may direct him to prepare and maintain a true and correct account in such form as may be prescribed.

Certain dealers to issue bill or cash memorandum.

*[16-A. (1) Every dealer whose turnover exceeds Rs. 50,000 in any year shall, in respect of all goods sold by him, issue a bill or a cash memorandum to the purchaser, signed and dated by him or his servant, manager or agent showing such particulars as may be prescribed and shall keep the counterfoil or duplicate of such bill or cash memorandum duly signed and dated and preserve it for a period of not less than three years from such date.

(2) If any person to whom this sub-section applies contravenes the provisions of this sub-section, he shall be liable to a fine equal to double the amount of the bill or the cash memorandum in respect of which such contravention has occurred or rupees fifty whichever is less.

(3) The prescribed authority may, either before or after the institution of proceedings in respect of an offence under this section, compound any such offence.]

*Added by Act No. VII of 1955, published in Gazette Extraordinary No. 56, dated 14th May, 1955.

Powers to order production of accounts and powers of entry, inspection and seizure.

17. (1) Any officer authorised by the Government in this behalf may, for the purposes of this Act, require any dealer carrying on business in any kind of goods to produce before him any accounts or other documents, and to furnish any other information relating to such business.

(2) All accounts and registers maintained by dealers in the ordinary course of their business, the goods in their possession and their offices, shops, godowns, or vehicles shall be open to inspection at all reasonable times by any officer so authorised.

(3) If the Commissioner or a Deputy Commissioner has reason to suspect that any dealer is attempting to evade the payment or any tax due from him under this Act, he may, for reasons to be recorded in writing, seize such accounts, registers or documents of the dealer as may be necessary, and shall grant a receipt for the same, and shall retain the same only for so long as may be necessary for examination thereof or for a prosecution.

(4) For the purposes of sub-section (2) or sub-section (3) any officer authorised in that behalf, or, as the case may be, the Commissioner or a Deputy Commissioner, may enter and search any office, shop, godown, vehicle or other place in which business is done.

Liability to tax of non-resident dealers

18. In the case of any person carrying on the business of buying or selling goods in the Hyderabad State but resident outside it (hereinafter in this section referred to as " a non-resident") the provisions of this Act shall apply subject to the following modifications and additions, namely :—

(*i*) in respect of the business of the non-resident, his agent residing in the Hyderabad State shall be deemed to be the dealer;

(*ii*) the agent of a non-resident shall be assessed to tax or taxes under this Act at the rate or rates leviable thereunder in respect of the business of such non-resident in which the agent is concerned, even if the amount of the turnover of such business is less than the minimum specified in section 3, or section 4 as the case may be ;

(*iii*) without prejudice to his other rights, any agent of a non-resident who is assessed under this Act in respect of the business of such non-resident may retain out of any moneys payable to the non-resident by the agent, a sum equal to the amount of the tax or taxes assessed on or paid by the agent.

Penalty for failure to furnish returns and for false returns.

19.‡[ ] If an assessing authority or an appellate authority in the course of any proceedings under this Act is satisfied that any person,

(*a*) has without reasonable cause failed to furnish any return required by the provisions of this Act, or

(*b*) has submited an untrue return,

such authority may direct that such person shall, pay by way of penalty, in the case referred to in clause (*a*), a sum not exceeding ‡[rupees five hundred] and in the case referred to in clause(*b*)

‡Amended by Act No. VII of 1955, published in Gazette Extraordinary No. 56, dated 14th May, 1955.

a sum not exceeding one and a half times the amount of tax which would have been avoided if the return submitted by him had been accepted as correct.

Appearance of authorised representatives.

‡[19-A. Any assessee who is entitled or required to attend before the tribunal or any Sales Tax Authority in connection with any proceedings under this Act, otherwise than when required to attend personally for examination on oath, or affirmation, may attend,—

(a) by a person authorised in this behalf being his relative or a person regularly employed by him, or

(b) by a legal practitioner, or

(c) subject to such conditions as may be prescribed by a practising Accountant or Sales Tax practising Accountant or Sales Tax practitioner who possesses the prescribed qualifications.]

Offences and prosecutions.

20. Any person, who—

(*a*) fails to submit an application for registration as required by sub-section (1) of section 10 ; or

†[(*aa*) fails to pay within the time allowed any tax assessed on him or any fee due from him, under this Act ; or]

(*b*) collects any amount by way of tax under this Act, in contravention of the provisions of sub-section (1) of section 11; or

(*c*) fails to pay the amounts specified in sub-section (2) of section 11 within the prescribed time ; or

(*d*) prevents or obstructs any inspection, entry, search or seizure by any officer authorised under section 17 to effect the same ; or

(*e*) wilfully acts in contravention of any of the provisions of this Act ;

shall, on conviction by a Magistrate of the first class, be liable to a fine which may extend to one thousand rupees, and where the offence is a continuing one to a further fine which may extend to fifty rupees for every day after the first during which the offence continues.

Composition of offences.

21. The prescribed authority may, either before or after the institution of proceedings in respect of an offence under section 20, compound any such offence.

*[Disclosure of information by public servant.

21-A. (1) All particulars contained in any statement made, return furnished, or accounts or documents produced under the provisions of this Act, or in any evidence given, or affidavit or deposition made, in the course of any proceedings under this Act (other than proceedings in a Criminal Court) or in any record of an assessment proceedings or any proceeding relating to the recovery of a demand, prepared for the purposes of this Act, shall be treated as confidential, and notwithstanding anything contained in the Hyderabad Evidence Act, II of 1313 Fasli, no

‡Amended by Act No VII of 1955, published in Gazette Extraordinary No. 56, dated 14th May 1955.

†Substituted by Act No. X of 1953, published in Gazette Extraordinary No. 59, dated 1st May, 1953.

*As amended by Act No. XXXII of 1950.

court shall, save as provided in this Act be entitled to require any public servant to produce before it any such return, account, document or record or any part of such record or to give evidence before it in respect thereof.

(2) If, save as provided in sub-section (3), a public servant discloses any particulars contained in any such statement, return accounts, document, evidence, affidavit, deposition or record, he shall be punishable with imprisonment which may extend to six months, and shall also be liable to fine.

(3) Nothing contained in this section shall apply to the disclosure—

(*a*) of any such particulars for the purpose of a prosecution under the Hyderabad Penal Code, in respect of any such statement, return accounts, document, evidence, affidavit or deposition or for the purposes of a prosecution under this Act ; or

(*b*) of any such particulars to any person acting in the execution of this Act where it is necessary to disclose the same to him for the purposes of this Act ; or

(*c*) of any such particulars occasioned by the lawful employment under this Act or any process for the service of any notice or the recovery of any demand ; or

(*d*) of any such particulars to a Civil Court in any suit to which the Government is a party which relates to any matter arising out of any proceeding under this Act ; or

(*e*) of any such particulars to any officer appointed to audit receipts or refunds of the tax imposed by this Act ; or

(*f*) of any such particulars relevant to any inquiry into the conduct of an official of the Sales Tax Department to any persons appointed to hold such inquiry ; or

(*g*) of such facts to an officer of the Central Government as may be necessary for the purpose of enabling that Government to levy or realise any tax or duty imposed by it; or

(*h*) of any such particulars occasioned by the lawful exercise by a public servant of his powers under the Hyderabad Stamp Act, 1331 Fasli to impound an insufficiently stamped document ; or

(*i*) of such facts to any person charged by law with the duty of enquiring into the qualifications of electors, as may be necessary to establish whether a person is or is not entitled to be entered on an electoral roll ; or

(*j*) of any such particulars relevant to an inquiry into a charge of misconduct in connection with sales-tax proceedings against a lawyer or accountant to the authority empowered to take cognizance of such charge ; or

(*k*) of any such particulars to any assessee or his legal representative as may be necessary to furnish copies of documents or statements submitted by the assessee under this Act and to establish the correctness thereof.

Assessments etc., not to be questioned in courts.

22. The validity of the assessment of any tax or of the levy of any fee or other amount, made under this Act, or the liability of any person to pay any tax, fee, or other amount so assessed or levied shall not be questioned in any criminal court in any prosecution or other proceeding, whether under this Act or otherwise.

Bar of suits.

23. (1) No suit, prosecution or other proceeding shall lie against any officer or servant of the Government for any act done or purporting to be done under this Act, without the previous sanction of the Governmet.

(2) No officer or servant of the Government shall be liable in respect of any such act in any civil or criminal proceeding if the act was done in good faith in the course of the execution of duties or the discharge of functions imposed by or under this Act.

Limitation for certain suits and prosecutions.

24. No suit shall be instituted against the Government and no suit, prosecution or other proceeding shall be instituted against any officer or servant of the Government in respect of any act done or purporting to be done under this Act, unless the suit, prosecution or other proceeding is instituted within six months from the date of the act complained of.

Application of certain provisions to casual traders and agents deemed to be dealers.

25. (1) Such provisions of this Act as are expressed to apply to, or in respect of, dealers shall, so for as may be, apply also, subject to such modifications and exceptions as may be prescribed, to and in respect of casual traders.

(2) The application of such provisions as aforesaid to and in respect of an agent deemed by clause (*i*) of sub-section (1) of section 18 to be a dealer shall be subject to such modifications and exceptions as may be prescribed.

Power to make rules.

26. (1) Government may make rules to carry out the purposes of this Act.

* [Provided that the rules shall be laid on the table of the house.]

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(*a*) all matters expressly required or allowed by this Act to be prescribed;

(*b*) the grant of licenses under **[sections 6, 8 or 9] including the fees, if any, payable for the same and the conditions thereof;

(*c*) the assessment to tax under this Act of businesses which are discontinued or the ownership of which has changed;

(*d*) the assessment to tax under this Act of businesses owned by minors and other incapaciated persons or by persons residing outside the Hyderabad State;

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* Added by Act No, VII of 1955, published in Gazette Extraordinary No. 56 dated 14th May, 1955.

**As amended by Act No. X of 1953, published in Gazette Extraordinary No. 59, dated 1st May, 1953.

(*e*) the assessment of a business owned by any person whose estate or any portion of whose estate is under the control of the Court of Wards, the Administrator-General, the Official Trustee, or any receiver or manager appointed by or under any order of a court;

(*f*) the assessment to tax under this Act of any turnover which has escaped assessment, and the period within which such assessment may be made, provided that such period shall not exceed three years from the end of the year for which the turnover was assessable;

(*g*) the rectification of mistakes apparent from the record of any assessment, appeal or revision and the period within which such rectification may be made;

(*h*) compelling the submission of returns and the production of documents and enforcing the attendance of persons and examining them on oath or affirmation;

(*i*) securing that returns furnished or accounts or documents produced or evidence of any kind given under this Act before any assessing authority or an appeal or revision from any decision of such authority are kept confidential;

(*j*) the duties and powers of officers appointed for the purpose of enforcing the provisions of this Act;

(*k*) generally regulating the procedure to be followed and the forms to be adopted in proceedings under this Act;

*[(*k*1) prescribing fees incidental to the disposal of a appeals, applications for revision and any other application or petition filed before the Commissioner, the Deputy Commissioner and the Sales Tax Officer;]

**[(*k* 2) the term of office and the conditions of service of the members of the Tribunal;

**(*k* 3) the circumstances in which, and the extent to which, fees paid in pursuance of section 15–A may be refunded; and"]

(*l*) any other matter for which there is no provision or no sufficient provision in this Act and for which provision is, in the opinion of Government, necessary for giving effect to the purposes of this Act.

(3) In making a rule under this section Government, may provide that a person guilty of a breach thereof shall, on conviction by a Magistrate of the first class, be punishable with fine which may extend to one thousand rupees, and, where the breach is a continuing one, with further fine which may extend to fifty rupees for every day after the first during which the breach continues.

(4) The power to make rules conferred by this section shall, except on the first occasion of the exercise thereof, be subject to the condition of previous publication.

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*Substituted by Act No. XLVII of 1952, published in Gazette Extraordinary No. (198), dated 31st December, 1952.

** Added by Act No. VII of 1955, published in Gazette Extraordinary No, 56, dated 41th May, 1955.

(5) All rules made under this section shall be published in the Jarida, and upon such publication shall have effect as if enacted in this Act.

Operation of Act 3 of 1357 F.

27. (1) Nothing in this Act shall affect the application of the Luxury Sales Tax Act, 1357 F. (hereinafter in this section and in section 28 referred to as the said Act) to the assessment and levy of the tax imposed by the said Act in respect of the years 1357 F. and 1358 F. and to all matters arising therefrom.

(2) In respect of the period from the 1st day of October, 1949 to the 30th day of April, 1950 all the provisions of the said Act shall have effect as if—

(*a*) references in the said Act to a year were references to the period aforesaid;

(*b*) the reference to one thousand rupees in the first proviso to sub-section (1) of section 3 of the said Act were a reference to five hundred and eighty-three rupees; and

(*c*) the reference to ten thousand rupees in the second provision to the said sub-section were a reference to five thousand eight hundred and thirty-three rupees.

(3) Save as provided in sub-sections (1) and (2) the said Act shall cease to have effect.

Power to remove difficulties.

28. If any difficulty arises in giving effect to the provisions of this Act, or of the said Act as operative by virtue of section 27 of this Act, Government may, as occasion may require, by order, do anything which appears to them necessary for the purpose of removing the difficulty.

*[SCHEDULE I.

[Section 2 (*f*)]

Exempted Goods.

1. Oats, barley, ears of maize (green) and rajgira (Amaranathus).

2. **[Deleted.]

3. Vegetables (green or dried), potatoes, eggs, meat and fish (except when sold in sealed containers).

4. Gur including bura sugar.

5. Salt.

6. Fresh milk, curds, butter-milk and butter (except when sold in sealed containers).

7. Agricultural machinery and all kinds of Indian made spare parts of mechanically propelled vehicles relating to agriculture.

8. Agricultural implements.

9. Grass, hay, straw and kadbi (stalks of jowar and maize.)

10. Electrical energy.

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*Substituted by Act No. XXVIII of 1954, published in Gazette Extraordinary No. (174), dated 1st October 1954.

**Deleted by Act No. XIII of 1956, published in Gazette Extra-Ordinary No. 109, D/6-6-56.

11. Cotton cloth woven on handlooms exclusively out of handspun yarn and articles made of such cloth and sold by persons certified by All-India Spinners' Association and dealing exclusively in these commodities.

12. Handloom cloth other than that specified in item No. 11 costing less than Rs. 3 per yard.

13. Charkhas and their parts, slivers and gutts.

14. School exercise and drawing books.

15. All text-books approved by the Director, Public Instruction.

16. Motor spirit as defined in the Hyderabad Sales of Motor Spirit Taxation Regulation, 1358 Fasli.]

17. *[Sendhi.—As defined in clause (5) of section 2 of the Hyderabad Abkari Act, 1316 Fasli (I of 1316 Fasli)].

18. †Omitted

19. ‡Omitted

20. Fertilizers including—
(*i*) Ammonium Sulphate.
(*ii*) Ammonium Phosphate.
(*iii*) Ammonium Nitrate.
(*iv*) Bone Sulpher Phosphate.
(*v*) Mineral Phosphate.
(*vi*) Nitrate of Soda.
(*vii*) Gypsum.
(*viii*) Nitrate of Potash.
(*ix*) Bone meal.
(*x*) Fish meal.

and excluding all kinds of oil cakes.

**[SCHEDULE II.

[Sections 3 (2) and 4 (2)]

Goods on which an additional tax is leviable.

1. (*a*) Motor vehicles including motor cars, motor taxi, cabs, motor cycles and cycle combinations, motor scooters-motorettes, motor omnibuses, motor vans and motor lorries;

(*b*) Chassis of motor vehicles;

(*c*) Component parts of motor vehicles;

Articles (including rubber and other tyres and tubes and batteries) adapted for use as parts or accessories of motor vehicles not being such articles as are ordinarily also used for other purposes than as part or accessories of motor vehicles.

**Substituted by Act No. XXVII of 1952, published in Gazette Extraordinary No. 126, dated 25th July 1952.

* Substituted by Act No. VII of 1955, published in Gazette Extraordinary No. 56 Dated 14th May, 1955.

†Omitted by Act No. VII of 1955, publishd in Gazette Extraordinary No. 56 dated 14th May, 1955.

‡Omitted by Act XIII of 1956, published in Gazette Extraordinary No. 109 dated 6th June, 1956.

2. Refrigerators and air-conditioning plants.

3. (*a*) Wireless reception instruments and apparatus and component parts thereof, including all electrical valves, accumulators, amplifiers and loudspeakers which are not specially designed for purposes other than wireless reception.

(*b*) Radio gramophones.

4. (*a*) Cinematographic, photographic and other cameras, projectors and enlargers; lenses and other parts and accessories of such cameras, projectors and enlargers and film, plates, paper and cloth required for use therewith.

(*b*) Binoculars and opera glasses.

5. All electrical goods, instruments, apparatus and appliances including fans and lighting bulbs, electrical earthenware and porcelain, and all other accessories.

6. Any pen, pencil or pen and pencil set sold for Rs. 12 or more.

7. All clocks, time-pieces and watches; and parts thereof

8. Gramophones of every description, gramophone records and needles including accessories and the spare parts thereof.

†[9. Silks including artificial silks and all silk goods but excluding silk thread and silk woven on handloom costing less than Rs. 6 per yard.]

10. Perfumery cosmetics and all toilet articles, excluding washing soaps.

11. Fireworks;

12. Cigars, cheroots, pipe tobacco and tinned tobacco used in cigarettes and paper-loose, *[cigarettes costing more than two annas per packet of ten cigarettes.]

13. Rifles, revolvers, pistols and ammunition for the same.

14. All goods manufactured with or of sandalwood or ivory.

15. Silk carpets or woollen carpets.

16. Woollen goods, woollen rugs and shawls costing Rs. 15 or more including woollen and cotton mixtures.

17. Plastics, celluloid and bakelite goods and goods made of similar substances.

18. Sanitary fittings of every description excluding stoneware, cement, iron pipes and fittings respectively.

19. Upholstered furniture, tubular, iron and steel furniture of every description including safes and treasure-chests.

20. Vacuum flasks of every description including hot water, ice and food jars and ice boxes or containers.

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†Added by the Act No. XLVII of 1952, published in the Extraordinary Gazette No. 198, dated the 31st December 1952.

*Amended by Act No. X of 1953.

21. Musical instruments of every description including accessories and spare parts of every description.

22. Tiles used for decoration purposes.

23. Cigarette and cigar cases, cigarette pipes and lighters.

24. Articles of every description manufactured from foreign electroplate, nickel, German silver or stainless steel except accessories and component parts of bi-cycles.

25. Playing cards of every description.]

26. *[Deleted]

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*Deleted by Act No. XIII of 1956, published in Gazette Extraordinary No. 109, dated 6th June, 1950.